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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/789,880 | 02/27/2004 | Brian J. Conaway | 3984500-149029 | 9552 |

7590 06/21/2006
Porter, Wright, Morris & Arthur LLP
ATTN: Intellectual Property Department
28th Floor
41 South High Street
Columbus, OH 43215-6194

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| EXAMINER |
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TORRES, ALICIA M

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| ART UNIT | PAPER NUMBER |
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3671

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/789,880 | Applicant(s) CONAWAY ET AL. | |
| | Examiner Alicia M. Torres | Art Unit 3671 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15, 16, 20-24 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 15, 16 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 7, 8, 10, 11, 12, 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Stapley et al.

Stapley discloses a rake comprising:

- A head (22) including
 - a socket at the tines (24)
 - a support forming a passage extending through the support and spaced apart from the socket, wherein the handle extends through the passage and into the socket
- A handle (18) directly secured to the head (22) to prevent relative movement therebetween and extending to the tines (24)
- Spaced-apart flexible tines (24) parallel to the handle (18) and extending and unremovable from the head (22) opposite the handle (18), each through separate openings in the brace (14)
- A brace (14) movable along the tines (24) and relative to the handle (18) between first and second positions
- A locking device operable to releasably secure the brace (14) to the head (22) in the two positions, and predefined locations there between, the locking device comprising:

Art Unit: 3671

- A plurality of protrusions (32) and grooves (30) formed in the head (22) and the brace (14)
- A knob (28) operable to bring the protrusions (32) and grooves (30) into and out of engagement to lock and unlock the brace (14)
- Wherein the brace (14) moves relative to the handle (18) as the brace (14) moves between the first and second positions, defining a plurality of positions for the brace (14) relative to the head (22)
- Wherein the spacing between the tines (24) remains unchanged as the brace (14) moves between the first and second positions.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-6, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stapley et al.

Stapley discloses the claimed invention, as stated above, except for the particularly claimed shapes or materials of construction. However, it would have been an obvious matter of design choice to construct the rake with T-shapes or cylindrical shapes or of plastic and/or metal materials.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

6. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

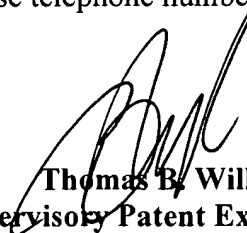
Claim 29 is allowed.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671